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concerning Customs and related matters



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This issue contains

T.D. 73-227 through 73-236

C.D. 4463 and 4464

C.R.D. 73-17

Protest abstracts P73/785 through P73/798

Reap. abstracts R73/232 through R73/244

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

(T.D. 73-227)

Personal declarations and exemptions—Customs Regulations amended

Section 148.90, Customs Regulations, pertaining to the free entry privileges (including duty-free alcoholic beverages) for foreign military personnel, added

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE,
ETC.

PART 11—PACKING AND STAMPING; MARKING

PART 145—MAIL IMPORTATIONS

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

On April 19, 1973, notice of proposed rule making to amend Part 148 of the Customs Regulations by adding to subpart I of Part 148 a new section 148.90 entitled "Foreign military personnel," was published in the Federal Register (38 FR 9670). No comments were received in response to this notice.

Section 148.90 is part of the general revision of the Customs Regulations and replaces present section 10.30c. Changes or additions in language are made to clarify the provisions, eliminate inconsistencies, and conform the Customs Regulations to current administrative practices.

The principal changes in the requirements and procedures in section 148.90 from those set forth in section 10.30c relate to the entry or withdrawal of alcoholic beverages under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), for personal or family use. These changes are as follows:

1. The present regulations state that for normal consumption the entry or withdrawal of alcoholic beverages under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), is limited to one case per month. In practice, this limitation does not apply to malt beverages. Therefore, the words "(other than malt beverages)" are added to section 148.90(d) (1) (i), to clearly point out that malt beverages are an exception to the limitation.

2. Advance entry or withdrawal of cases of alcoholic beverages under the one case per month limitation, mentioned above, is permitted under the present regulations, but the number of cases advanced is left to the discretion of the district director. This policy has resulted in a lack of uniformity as to the number of cases that can be entered or withdrawn at one time. To establish a uniform policy, section 148.90 (d) (1) (ii) permits three cases (the initial one plus two cases in advance) to be entered or withdrawn at any one time. The second sentence of section 148.90(d) (1) (ii) is added to explicitly point out that this advance entry or withdrawal does not broaden the one case per month limitation.

3. Section 148.90(d) (3) sets forth the requirement that the warehouse proprietor must retain the necessary records concerning the entry and withdrawal of alcoholic beverages under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), for at least 3 years from the date of such entry or withdrawal. This section also indicates that the district director may have the warehouse proprietor's records verified.

4. Since the requirement that the member of the armed forces be an alien is explicitly set forth in section 148.81, it is omitted from section 148.90.

The amendment also sets forth the limitations that the term "articles entered for the personal or family use" does not include articles imported as an accommodation to others or for sale or other commercial use. These limitations are contained in headnote 3 of schedule 8, part 2C, Tariff Schedules of the United States (19 U.S.C. 1202).

Cross-references made by other sections of the Customs Regulations to section 10.30c have been changed to reflect the replacement of that section by section 148.90.

There is included as part of the amendment a parallel reference table which shows the relationship of section 148.90 to superseded section 10.30c of the Customs Regulations.

Accordingly, new section 148.90, and conforming changes in Parts 10, 11, 145, and 148 of the Customs Regulations, Chapter I, title 19 of the Code of Federal Regulations, are hereby adopted as set forth below.

Effective date. This amendment shall become effective 30 days after publication in the Federal Register.

(ADM-9-R:R)

VERNON D. ACREE,
Commissioner of Customs.

Approved August 13, 1973:

EDWARD L. MORGAN,

Assistant Secretary of the Treasury.

[Published in the Federal Register August 22, 1973 (38 FR 22548)]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Part 10 is amended by deleting section 10.30c and footnotes 33e and 33f appended thereto.

(R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (Gen. Hdntc. 11), 1624)

PART 11—PACKING AND STAMPING; MARKING

Section 11.3 is amended by deleting “10.30c.”.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 145—MAIL IMPORTATIONS

Section 145.39 is amended by deleting “and section 10.30c”.

(R.S. 251, as amended, 77A Stat. 14, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1202 (Gen. Hdntc. 11), 1624)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Section 148.81 is amended to correct its cross-reference to foreign military personnel as follows:

In paragraph (a) substitute “section 148.90” for “section 10.30c of this chapter”.

In paragraphs (b), (c), and (d) delete “and section 10.30c of this chapter”.

Part 148 is amended by adding a new section 148.90 entitled “Foreign military personnel” to subpart I, to read as follows:

§ 148.90 Foreign military personnel.

(a) *Exemptions allowed.* District directors shall in accordance with the provisions of this section admit the following free of duty and internal revenue tax imposed upon or by reason of importation:

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(1) The baggage and effects of persons on duty in the United States as members of the armed forces of any foreign country, and of their immediate families under item 820.40, Tariff Schedules of the United States (19 U.S.C. 1202);

(2) Articles entered or withdrawn from warehouse for consumption by a member of the armed forces of any foreign country on duty in the United States, for his personal use or that of any member of his immediate family but not as an accommodation to others or for sale or other commercial use, under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202); and

(3) Articles entered or withdrawn from warehouse for consumption for the official use of members of the armed forces of any foreign country on duty in the United States, under item 841.20, Tariff Schedules of the United States (19 U.S.C. 1202).

(b) *Reciprocity limitation.* When district directors have been advised officially of a finding by the Secretary of the Treasury that a foreign country does not reciprocate to members of the armed forces of the United States on duty in its country and members of their immediate families the privileges accorded its members and their families in the United States, the district directors shall accord to the personnel of such foreign government privileges under the law only to the extent to which the foreign government accords similar treatment to members of the armed forces of the United States and members of their immediate families.

(c) *Status of importer questioned.* If any question arises as to the status of the importer under item 820.40, 822.20, or 841.20, Tariff Schedules of the United States (19 U.S.C 1202), or whether articles entered thereunder are for official use or for personal or family use but not as an accommodation to others or for sale or other commercial use, the district director shall report the available facts to the Commissioner of Customs for instructions.

(d) *Alcoholic beverages for personal or family use.*

(1) *General rule.*

(i) *Limitation stated.* Except in the case of exceptional circumstances set forth in paragraph (d) (2) of this section, entry of alcoholic beverages (other than malt beverages) for personal or family use but not as an accommodation to others or for sale or other commercial use under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), is limited to one case each month.

(ii) *Advance entry or withdrawal.* A maximum of three cases (the initial one plus two cases in advance) may be entered or withdrawn at any one time in a given 3-month period if the district director is satisfied they are for personal or family use but not as an accommoda-



tion to others or for sale or other commercial use. Such advance entry or withdrawal shall not be deemed to broaden the one case per month limitation.

(iii) *Certification.* At the time of each entry or withdrawal, the member of the armed forces must certify that since his last entry or withdrawal there have expired a number of months equal to the number of cases last entered or withdrawn.

(2) *Exceptional circumstances.* In exceptional circumstances an additional quantity of alcoholic beverages for personal or family use but not as an accommodation to others or for sale or other commercial use, in excess of the one case per month limitation may be allowed under the following procedure:

(i) A statement signed by the member of the armed forces and attached to his declaration for free entry will be submitted to the district director, setting forth the reason for requesting the additional quantity.

(ii) The statement of request must be approved by the officer or person in charge of the armed forces involved, or a person specifically authorized by such officer or person to approve such requests; and

(iii) The district director must be satisfied that the need for the additional quantity is justified. Questionable cases shall be referred to the Commissioner of Customs for instructions.

(3) *Retention and verification of the warehouse proprietors' records.* The warehouse proprietor shall retain all records relating to the entry and withdrawal of alcoholic beverages under item 822.20, Tariff Schedules of the United States (19 U.S.C. 1202), for at least 3 years from the date of entry or withdrawal of such beverages. Verification of the warehouse proprietors' records shall be at the discretion of the district director.

(e) *Entry requirements.* The entry requirements prescribed in the Tariff Act of 1930, as amended (title 19, United States Code), and the regulations thereunder are applicable to articles for which free entry is claimed under item 820.40, 822.20, or 841.20, Tariff Schedules of the United States (19 U.S.C. 1202). No invoices shall be required.

(R.S. 251, as amended, 77A Stat. 14, secs. 498, 624, 46 Stat. 728, as amended, 759; 19 U.S.C. 66, 1202 (Gen. Hdnt. 11), 1498, 1624)

Parallel Reference Table

(This table shows the relation of sections in revised Part 148 to superseded 19 CFR Part 10)



	<i>Revised section</i>	<i>Superseded section</i>
148.90(a) -----	-----	10.30c(a)
148.90(b) -----	-----	10.30c(a)
148.90(c) -----	-----	10.30c(b)
148.90(d)(1)(i) -----	-----	10.30c(b)
148.90(d)(1)(ii) -----	-----	10.30c(b) & New
148.90(d)(1)(iii) -----	-----	10.30c(b)
148.90(d)(2) -----	-----	10.30c(b)
148.90(d)(3) -----	-----	New
148.90(e) -----	-----	10.30c(c) & (d)

(T.D. 73-228)

Ports of entry—Customs Regulations amended

Changes in the Customs Field Organization, section 1.2(c), Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., August 13, 1973.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—UNITED STATES CUSTOMS SERVICE

PART 1—GENERAL PROVISIONS

On May 18, 1973, notice of a proposal to extend the limits of the port of Omaha, Nebraska, in the Chicago, Illinois, Customs district (Region IX), was published in the Federal Register (38 FR 13027). No comments were received regarding this proposed extension.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), the port limits of Omaha, Nebraska, in the Chicago, Illinois, Customs district (Region IX), are hereby extended to include all of Douglas County and all of Sarpy County in the State of Nebraska, and all of Pottawattamie County west of Iowa Highway 59 in the State of Iowa.

To reflect this change, the table in section 1.2(c) of the Customs Regulations is amended by substituting "Omaha, Nebraska (including the territory described in T.D. 73-228)" for "Omaha, Nebr. (including territory described in E.O. 9297, Feb. 1, 1943; 8 F.R. 1479)." in the

column headed "Ports of Entry" in the Chicago, Illinois, district (Region IX).

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 1, 2)

It is desirable to make the extended port of entry available to the public as soon as possible. Therefore, good cause is found for dispensing with the delayed effective date under the provision of 5 U.S.C. 553(d).

Effective date. This amendment shall be effective upon publication in the Federal Register.

(ADM-9-03:R:R)

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[Published in the Federal Register August 22, 1973 (38 FR 22547)]

(T.D. 73-229)

Copper

Temporary suspension of duties on certain forms of copper pursuant to Public Law 93-77

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 16, 1973.

Public Law 93-77, approved July 30, 1973, provides for a temporary suspension of duties on certain forms of copper. The suspension of duties is effective from July 1, 1973, through June 30, 1974. The Act also provides for a change with respect to the market price of copper as provided for in Headnote 3 of Schedule 9, Part 1, Subpart B.

(462.2)

LEONARD LEHMAN,
Assistant Commissioner,
Office of Regulations and Rulings.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) items 911.10 (relating to copper waste and scrap), 911.11 (relating to articles of copper), 911.13 (relating to copper bearing ores and materials), 911.14 (relating to cement copper and copper precipitates), 911.15 (relating to black copper, blister copper, and anode copper), and 911.16 (relating to other unwrought copper) of the Tariff Schedules of the United States (19 U.S.C. 1202) are each amended by striking out "6/30/72" and inserting in lieu thereof "6/30/74".

(b) Headnote 3 of subpart B of part 1 of the appendix to such

schedules is amended by striking out "36" each place it appears therein and inserting in lieu thereof "51".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after July 1, 1973.

Approved July 30, 1973.

(T.D. 73-230)

Foreign currencies—Certification of rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Malaysian dollar

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 15, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73-190 for the Malaysian dollar. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

Malaysian dollar:

August 6, 1973-----	\$0.4440
August 9, 1973-----	.4440

(LJQ-3-0:A:E)

JAMES D. COLEMAN,
*Acting Director, Appraisement
and Collections Division.*

[Published in the Federal Register August 23, 1973 (38 FR 22664)]

(T.D. 73-231)

Cotton, wool and manmade fiber textiles—Restriction on entry

Restriction on entry of cotton textiles and cotton textile products and wool and manmade fiber textile products manufactured or produced in the Republic of Korea

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 21, 1973.

There is published below the directive of August 8, 1973, received by the Commissioner of Customs from the Chairman, Committee for the

Implementation of Textile Agreements, concerning the visa requirement for cotton textiles and cotton textile products and wool and man-made fiber textile products, manufactured or produced in the Republic of Korea. This directive amends but does not cancel that Committee's directive of May 19, 1972 (T.D. 72-339).

This directive was published in the Federal Register on August 14, 1973 (38 F.R. 21961), by the Committee.

(QUO-2-1)

JAMES D. COLEMAN,
*Acting Director, Appraisement
and Collections Division.*

THE ASSISTANT SECRETARY OF COMMERCE

WASHINGTON, D.C. 20230

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

August 8, 1973.

COMMISSIONER OF CUSTOMS
*Department of the Treasury
Washington, D.C. 20229*

DEAR MR. COMMISSIONER:

This letter further amends, but does not cancel, the directive of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the Federal Register, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-64; wool textile products in Categories 101-126, 128, and 131-132; and man-made fiber textile products in Categories 200-243; produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. The directive of May 19, 1972 was previously amended on December 21, 1972, July 17, 1973, and July 18, 1973.

Under the provisions of the Cotton Textile Agreement of December 30, 1971 and the Wool and Man-Made Fiber Textile Agreement of January 4, 1972, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, the directive of May 19, 1972 is further amended, effective as soon as possible, to authorize the use of a new visa for cotton, wool and man-made fiber textile shipments in the aforementioned categories exported

from the Republic of Korea to the United States on and after August 1, 1973. The visa should appear on the front side of the invoice (Special Customs Invoice Form 5515 or other successor document, or commercial invoice when used). Mr. Jae Euk Chae, Chief, Quota Management Division, Ministry of Commerce and Industry, Republic of Korea Government, is the only official designated to issue visas on and after August 1, 1973. Shipments of cotton, wool and/or man-made fiber textile products exported from the Republic of Korea and covered by visas issued before August 1, 1973, in accordance with previous directives, shall not be denied entry. A facsimile of the new visa with the signature of Mr. Jae Euk Chae is enclosed.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool, and man-made fiber textiles and textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

ALAN POLANSKY,
*Acting Chairman, Committee for the
Implementation of Textile Agreements, and
Acting Deputy Assistant Secretary for
Resources and Trade Assistance*



(T.D. 73-232)

Antidumping—Printed vinyl film from Brazil

The Secretary of the Treasury makes public a finding of dumping with respect to printed vinyl film from Brazil. Section 153.43, Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., August 21, 1973.

TITLE 19—CUSTOMS DUTIES**CHAPTER I—U.S. CUSTOMS SERVICE****PART 153—ANTIDUMPING**

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that printed vinyl film from Brazil is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the Federal Register of April 19, 1973 (38 F.R. 9678).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States Tariff Commission responsibility for determination of injury or likelihood of injury. The United States Tariff Commission has determined, and on July 18, 1973, it notified the Secretary of the Treasury that an industry in the United States is likely to be injured by reason of the importation of printed vinyl film from Brazil sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the Federal Register of July 24, 1973 (38 F.R. 19878).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to printed vinyl film from Brazil.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

<i>Merchandise</i>	<i>Country</i>	<i>T.D.</i>
Printed Vinyl Film	Brazil	73-232
(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)		
(APP-2-04)		

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[Published in the Federal Register August 24, 1973 (38 FR 22794)]

(T.D. 73-233)

Antidumping—Printed vinyl film from Argentina

The Secretary of the Treasury makes public a finding of dumping with respect to printed vinyl film from Argentina. Section 153.43, Customs Regulations, amended

DEPARTMENT OF THE TREASURY,
Washington, D.C., August 21, 1973.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—U.S. CUSTOMS SERVICE

PART 153—ANTIDUMPING

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the Secretary of the Treasury responsibility for determination of sales at less than fair value. Pursuant to this authority the Secretary of the Treasury has determined that printed vinyl film from Argentina is being, and is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)). (Published in the Federal Register of April 19, 1973 (38 F.R. 9677).)

Section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), gives the United States Tariff Commission responsibility for determination of injury or likelihood of injury. The United States Tariff Commission has determined, and on July 18, 1973, it notified the Secretary of the Treasury that an industry in the United States is likely to be injured by reason of the importation of printed vinyl film from Argentina sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. (Published in the Federal Register of July 24, 1973 (38 F.R. 19878).)

On behalf of the Secretary of the Treasury, I hereby make public these determinations, which constitute a finding of dumping with respect to printed vinyl film from Argentina.

Section 153.43 of the Customs Regulations is amended by adding the following to the list of findings of dumping currently in effect:

<i>Merchandise</i>	<i>Country</i>	<i>T.D.</i>
Printed Vinyl Film	Argentina	73-233

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173.)

(APP-2-04)

EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[Published in the Federal Register August 24, 1973 (38 FR 22794)]

(T.D. 73-234)

Instruments of international traffic

Steel rack skids, wooden shells, and steel bars designated as instruments of international traffic

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 22, 1973.

It has been established to the satisfaction of the U.S. Customs Service that units composed of a steel rack skid, wooden shells, and steel bars, 65 inches in height by 42 inches by 65 inches, used for the transportation of wire tire cord fabric, are substantial, suitable for and capable of repeated use and will be used in significant numbers in international traffic.

Under the authority of section 10.41a(a)(1), Customs Regulations (19 CFR 10.41a(a)(1)), I hereby designate the above-described units as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. These units may be released under the procedures provided for in section 10.41a, Customs Regulations.

(542.112)

VERNON D. ACREE,
Commissioner of Customs.

[Published in the Federal Register August 28, 1973 (38 FR 22987)]

(T.D. 73-235)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippine peso, Singapore dollar, Thailand baht (tical)

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 20, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR, Part 159, Subpart C.)

	<i>Official</i>	<i>Free</i>
July 23, 1973-----	\$0.1985	\$0.199900*
July 24, 1973-----	.1970	.199352*
July 25, 1973-----	.1970	.198807*
July 26, 1973-----	.1970	.197921*
July 27, 1973-----	.1960	.197190*

Iran rial:

For the period August 6 through August 10, 1973, rate of \$0.0150.

Philippine peso:

For the period August 6 through August 10, 1973, rate of \$0.1485.

Singapore dollar:

August 6, 1973-----	\$0.4440
August 7, 1973-----	.4435
August 8, 1973-----	.4435
August 9, 1973-----	.4440
August 10, 1973-----	.4435

Thailand baht (tical):

August 6, 1973-----	\$0.0500
August 7, 1973-----	.0495
August 8, 1973-----	.0495
August 9, 1973-----	.0495
August 10, 1973-----	.0495

(LIQ-3-0:A:E)

R. N. MARRA,
*Director, Appraisement
 and Collections Division.*

*Certified as nominal

(T.D. 73-236)

Synopses of Drawback decisions

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., August 22, 1973.

The following are synopses of drawback rates and amendments issued June 14 to August 9, 1973, inclusive; pursuant to sections 22.1 and 22.5, inclusive, Customs Regulations.

(DRA-1-09)

LEONARD LEHMAN,
Assistant Commissioner,
Office of Regulations and Rulings.

(A) *Aluminum and aluminum alloy forgings and other semi-fabricated products.*—T.D. 51991-A, as amended, covering, among other things, aluminum and aluminum alloy fabricated articles manufactured under section 1313 (b) by Kaiser Aluminum and Chemical Corp., Oakland, Calif., at its Trentwood, Wash., factory, with the use of aluminum and aluminum alloy sheets, further *amended* to cover aluminum and aluminum alloy forgings and other semi-fabricated products manufactured under section 1313 (b) by the company at its Erie, Penn., and Oxnard, Calif., factories, with the use of aluminum and aluminum alloy pig, sows, billets, and ingots.

Amendment effective on articles manufactured and exported on and after April 1, 1972.

Manufacturer's supplemental statement of June 12, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., July 10, 1973.

(B) *Caprolactam monomer, in solution, contaminated; and molten caprolactam monomer.*—Drawback allowed on contaminated caprolactam monomer in solution manufactured under section 1313 (a) by Nipro, Inc., Augusta, Ga., with the use of imported contaminated flaked caprolactam monomer; and on molten caprolactam monomer manufactured by the company under section 1313 (b) with the use of contaminated caprolactam monomer in solution.

Rate effective on articles manufactured on and after October 2, 1971, and exported on and after November 29, 1971.

Manufacturer's drawback statement of June 29, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., July 13, 1973.

(C) *Cranes, shovels, draglines, transporters, hoists, and winches.*—Manufactured under section 1313 (b) by Manitowoc Engineering Co., Division of Manitowoc Co., Inc., Manitowoc, Wis., with the use of parts and components.

Rate effective on articles manufactured and exported on and after June 12, 1972.

Manufacturer's drawback statements of November 20, 1972, and May 11, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., June 21, 1973.

(D) *Debarkers; parts and components of cranes, shovels, draglines, transporters, hoists and winches.*—Manufactured by Manitowoc Shipbuilding, Inc., Manitowoc, Wis., under section 1313 (b), with the use of steel plate.

Rate effective on articles manufactured and exported on and after June 12, 1972.

Manufacturer's drawback statements of November 20, 1972, and May 11, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., June 21, 1973.

(E) *Drums, steel.*—Manufactured under section 1313 (b) by Astro Container Co., Division of Allied Drum Service, Inc., Evendale, Ohio, with the use of steel coils.

Rate effective on articles manufactured on and after December 14, 1970, and exported on and after December 21, 1970.

Manufacturer's drawback statement of April 11, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., June 14, 1973.

(F) *Fry pan blanks, stainless steel clad.*—Manufactured under section 1313 (a) by Clad Metals, Inc., Canonsburg, Pa., with the use of imported or drawback aluminum alloy sheet; and the foregoing articles manufactured by the company under section 1313 (b) with the use of aluminum alloy sheet.

Rate effective on articles manufactured on and after March 2, 1970, and exported on and after January 15, 1973.

Manufacturer's drawback statements of May 11, and June 20, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., June 29, 1973.

(G) *Hosiery, nylon; and nylon panty hose.*—Manufactured under section 1313 (b) by Independence Industries, Inc., Independence, Va., with the use of nylon yarn.

Rate effective on articles manufactured on and after August 1, 1962, and exported on and after March 17, 1970.

Manufacturer's statement of May 18, 1973, forwarded to Regional Commissioners of Customs, New York, N.Y., and Miami, Fla., July 13, 1973.

(H) *Hosiery, nylon; and nylon panty hose.*—Manufactured under section 1313 (b) by Phoenix Manufacturing Co., Inc., Cheraw, S.C., with the use of nylon yarn.

Rate effective on articles manufactured on and after August 1, 1962, and exported on and after March 17, 1970.

Manufacturer's statement of May 18, 1973, forwarded to Regional Commissioners of Customs, New York, N.Y., and Miami, Fla., July 16, 1973.

(I) *Hosiery, nylon; and nylon panty hose.*—Manufactured under section 1313 (b) by Lamar Knitting Mills, Inc., Lamar, S.C., with the use of nylon yarn.

Rate effective on articles manufactured on and after August 1, 1962, and exported on and after March 17, 1970.

Manufacturer's statement of May 18, 1973, forwarded to Regional Commissioners of Customs, New York, N.Y., and Miami, Fla., July 16, 1973.

(J) *Lemon oil and orange oil, bulked, filtered and blended; concentrated lemon oil and orange oil.*—T.D. 45811-K, as amended by T.D.'s 52288-K and 71-135-H, covering natural and synthetic essential oils, compounds, and aromatic chemicals produced under section 1313 (a) by Fritzsche Dodge & Olcott, Inc., New York, N.Y., at its New York, N.Y., and Clifton, N.J., factories, with the use of essential oils, synthetic flower oils, and aromatic chemical preparations, and covering grained musk produced by the company with the use of imported crude musk in pods, further *amended* to cover bulked, filtered and blended lemon oil and orange oil, and concentrated lemon oil or orange oil manufactured under section 1313 (b) by the said company at its factories located at New York, N.Y., and Clifton and East Hanover, N.J., with the use of lemon oil and orange oil.

Amendment effective on articles manufactured and exported on and after July 1, 1970.

Supplemental statements of September 13, 1972, and June 4, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., June 27, 1973.

(K) *Methyl 4-Chlorophenyl-(3-Trifluoromethyl Phenoxy) Acetate (Halofenate intermediate).*—T.D. 54109-C, as amended, covering, among other things, indomethacin manufactured under section 1313

(a) by Merck and Co., Rahway, N.J., with the use of imported levulinic acid, and covering indomethacin manufactured under section 1313 (b) by the company with the use of levulinic acid, further amended to cover Methyl 4-Chlorophenyl-(3-Trifluoromethyl Phenoxy) acetate (Halofenate intermediate) manufactured by the company under section 1313(a) with the use of imported M-Trifluoromethyl Phenol; and to cover Methyl 4-Chlorophenyl-(3-Trifluoromethyl Phenoxy) acetate (Halofenate intermediate) manufactured by the company under section 1313 (b) with the use of M-Trifluoromethyl Phenol.

Amendment effective on articles manufactured and exported on and after April 15, 1973.

Supplemental statement of June 11, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., July 10, 1973.

(L) *Molding compounds, nylon.*—Manufactured under section 1313 (b) by Texapol Corp., Allentown, Pa., with the use of nylon 6 polymer.

Rate effective on articles manufactured on and after March 26, 1973, and exported on and after April 1, 1973.

Manufacturer's statement of May 30, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., June 27, 1973.

(M) *Oil, raw linseed; and linseed meal.*—Manufactured under section 1313 (b) by Cargill, Inc., Minneapolis, Minn., with the use of flaxseed.

Rate effective on articles manufactured on and after August 20, 1971, and exported on and after September 17, 1971.

Manufacturer's drawback statement of May 12, 1972, forwarded to Regional Commissioner of Customs, Chicago, Ill., July 10, 1973.

(N) *Orange juice, frozen concentrated.*—Manufactured under sections 1313 (a) and (b), by B & W Canning Co., Inc., Groveland, Fla., with the use of imported frozen concentrated orange juice (unpalatable), in bulk, and frozen concentrated orange juice (unpalatable), in bulk.

Rate effective on articles manufactured and exported on and after March 31, 1972.

Manufacturer's statements of April 4 and May 22, 1973, forwarded to Regional Commissioner of Customs, Miami, Fla., June 26, 1973.

(O) *Parts, automotive.*—Manufactured under section 1313 (b) by Stahl Manufacturing Co., Detroit, Mich., at the company's factories located at Detroit and Plymouth, Mich., with the use of steel wire rod in coils.

Rate effective on articles manufactured on and after March 7, 1971, and exported on and after April 7, 1971.

Manufacturer's drawback statement of April 13, 1972, forwarded to Regional Commissioner of Customs, Chicago, Ill., August 8, 1973.

(P) *Polypropylene-homopolymer and polypropylene-copolymers*.—Manufactured under section 1313 (b) by Shell Chemical Co., a Div. of Shell Oil Co., Houston, Tex., at its West Deptford, N.J., factory, with the use of propylene and ethylene.

Rate effective on articles manufactured and exported on and after January 1, 1967.

Manufacturer's statements of October 5, 1972, and April 3, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., August 6, 1973.

(Q) *QA171F and 170E P-nitrobenzyl cephem nucleus HCl and QA 166G and 170D cephalexin disolvate*.—T.D. 52031-B, as amended, covering, among other things, antibiotics, known as Keflin and Kefordin, manufactured under section 1313 (b) by Eli Lilly and Co., Indianapolis, Ind., at its various factories with the use of methionine feed grade, further amended to cover QA 171F and 170E P-nitrobenzyl cephem nucleus HCl and QA 166G and 170D cephalexin manufactured under section 1313 (b) by the company at its Clinton, Lafayette, and Indianapolis, Ind., factories, with the use of phenoxyethyl penicillin acid, potassium phenoxyethyl penicillin, para-nitrobenzyl bromide, and para-toluene sulfonic acid.

Amendment effective on articles manufactured on and after February 14, 1972, and exported on and after May 19, 1972.

Manufacturer's supplemental statements of April 17 and June 6, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., July 3, 1973.

(R) *Santicizer 148 (isodecyl diphenyl phosphate)*.—Manufactured under section 1313 (b), by Monsanto Co., St. Louis, Mo., at the factory of the company located at Bridgeport, N.J., with the use of isodecanol (isodecyl alcohol).

Rate effective on articles manufactured on and after June 15, 1973, and exported on and after June 20, 1973.

Manufacturer's drawback statements of June 28, and July 18, 1973, forwarded to the Regional Commissioners of Customs, Chicago, Ill., and New York, N.Y., August 13, 1973.

(S) *Sodium Carboxymethylcellulose (CMC)*.—T.D. 67-126-N, as amended by T.D.'s 68-68-M and 72-126-F, covering, among other

things, sodium carboxymethylcellulose (CMC), manufactured under section 1313 (b) by Hercules Inc., Wilmington, Del., at the company's Hopewell, Va., factory, with the use of methyl alcohol, further amended to cover sodium carboxymethylcellulose (CMC) manufactured under section 1313 (b) by the company at the said factory with the use of monochloroacetic acid flake (MCA).

Amendment effective on articles manufactured on and after March 15, 1973, and exported on and after March 16, 1973.

Supplemental statement of June 18, 1973, forwarded to Regional Commissioner of Customs, Baltimore, Md., July 9, 1973.

(T) *Syrup, Pepsi-Cola bottling, diet.*—T.D. 54093-D, as amended by T.D.'s 56436-L, 56495-B, 67-66-N, and 69-144-S, covering, among other things, various bottling and fountain syrups manufactured under the provisions of section 1313 (b) by PepsiCo, Inc., New York, N.Y., at its various factories with the use of liquid refined invert sugar, further amended to cover Diet Pepsi-Cola bottling syrup manufactured by PepsiCo, Inc., Purchase, N.Y., at the company's various factories under section 1313 (b) with the use of liquid refined invert sugar.

Amendment effective on articles manufactured and exported on and after January 1, 1971.

Manufacturer's supplemental statement of April 29, 1971, forwarded to Regional Commissioner of Customs, New York, N.Y., July 13, 1973.

(U) *Tank cars, tank heads, and other tank car parts.*—Manufactured under section 1313 (b) by Union Tank Car Co., Chicago, Ill., at its E. Chicago, Ind., factory, with the use of steel plate.

Rate effective on articles manufactured on and after September 20, 1967, and exported on and after September 29, 1967.

T.D.'s 50906-E, 50991-E, 54248-E, 54436-E, 54592-E, 55252-E, 55252-H, and 55814-E are revoked without prejudice to any drawback rights which have accrued.

Manufacturer's statements of June 30, 1972, and June 4, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., June 20, 1973.

(V) *Windshields and vent front door, rear quarter, and rear windows for automobiles.*—Manufactured under section 1313 (b) by Hordis Brothers, Inc., Pennsauken, N.J., at its factories located at Pennsauken, N.J., and Lancaster, Ohio, with the use of sheet glass.

Rate effective on articles manufactured on and after June 29, 1970, and exported on and after July 3, 1971.

Manufacturer's drawback statements of November 12, 1971, and March 2 and June 6, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., June 26, 1973.

(W) *Wire, brite drawn steel reinforcement; and wall ties.*—Manufactured under section 1313 (b) by Dur-O-Wal of Illinois, Aurora, Ill., with the use of basic steel wire rod.

Rate effective on articles manufactured and exported on and after November 15, 1971.

Manufacturer's statements of August 7, 1972, and February 8 and June 26, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., July 23, 1973.

(X) *Wire, brite drawn steel reinforcement; and wall ties.*—Manufactured under section 1313 (b) by Dur-O-Wal Wire, Inc., Aurora, Ill., with the use of steel wire rod.

Rate effective on articles manufactured and exported on and after November 15, 1971.

Manufacturer's statements of August 7, 1972, and February 8 and June 26, 1973, forwarded to Regional Commissioner of Customs, Chicago, Ill., July 23, 1973.

(Y) *Wire, brite drawn steel reinforcement; and wall ties.*—Manufactured under section 1313 (b) by Genimar, Inc., New York, N.Y., at its factory located at Baltimore, Md., with the use of steel wire rod.

Rate effective on articles manufactured and exported on and after February 8, 1972.

Manufacturer's drawback statements of March 16 and August 7, 1972, and February 8 and June 26, 1973, forwarded to the Regional Commissioner of Customs, Baltimore, Md., July 23, 1973.

(Z) *Wool top, dyed.*—T.D. 51910-E, as amended, covering yarn and piece goods, manufactured under section 1313 (a) by Burlington Industries, Inc., Greensboro, N.C., at its various factories with the use of imported rayon staple fiber, further *amended* to cover dyed wool top manufactured under section 1313 (b) by the company at its Raeford, Lexington, and Hot Springs, N.C., and Drakes Branch and Halifax, Va., factories, with the use of grease wool, scoured wool, and wool top.

Amendment effective on articles manufactured on and after June 2, 1972, and exported on and after August 27, 1972.

Manufacturer's supplemental statements of March 30 and June 21, 1973, forwarded to Regional Commissioner of Customs, New York, N.Y., July 9, 1973.

Decisions of the United States Customs Court

United States Customs Court

One Federal Plaza
New York, N.Y. 10007

Chief Judge
Nils A. Boe

Judges

Paul P. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Edward D. Re

Senior Judges

Charles D. Lawrence
David J. Wilson
Mary D. Alger
Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Protest Decisions

(C.D. 4463)

PARKSMITH CORPORATION *v.* UNITED STATES

Souvenirs

Small replicas of the Statue of Liberty and the Empire State Building and miniature cannons of varying sizes held to be classifiable as "Articles of lead, not coated or plated with precious metal" pursuant to TSUS item 657.75 rather than as "Articles not specially provided for of a type used for household, table, or kitchen use".

STATUTORY INTERPRETATION

The provision for "Articles not specially provided for of a type used for household, table, or kitchen use", was held to place a continuing emphasis on the utilitarian nature of the object in question as the determining factor in classification.

REVISION OF LAW—CHANGE IN MEANING

In the absence of specific legislative history regarding the change of language from the "household utensils" of the 1930 Act to "Articles * * * of a type used for household, table, or kitchen use" of the TSUS, there is no compelling reason to consider that a change of meaning was intended to broaden the TSUS provision to include non-utilitarian articles. The changes wrought in a complete revision of a comprehensive statute are not ipso facto changes in meaning.

USE OF THE BRUSSELS NOMENCLATURE

The use of the Brussels Nomenclature was precluded since the plain meaning of the tariff language was clear. This conforms to the case law standard by which the Brussels Nomenclature is used only when there is ambiguity in the tariff language and when the tariff language closely parallels the language of the headnotes in the Brussels Nomenclature.

Court Nos. 69/26905, 69/28668, and 69/29005

Port of New York

[Judgment for plaintiff.]

(Decided August 7, 1973)

Serko & Sklaroff (Joel K. Simon and Murray Sklaroff of counsel) for the plaintiff.

Irving Jaffe, Acting Assistant Attorney General (Joseph I. Liebman and Andrew P. Vance, trial attorneys), for the defendant.

WATSON, Judge: In these cases, consolidated for the purpose of trial, the court is asked to decide whether the merchandise in question was properly classified under TSUS item 654.20 as "Articles not specially provided for of a type used for household, table, or kitchen use * * *" or, in one instance, under TSUS item 653.80 as, "Articles, wares and parts of base metal, coated or plated with precious metal: * * * Coated or plated with silver". The merchandise consists of small replicas of the Empire State Building and the Statue of Liberty and miniature cannons of varying sizes which were made in and exported from Japan and imported into the United States at the port of New York. Plaintiff alleges that said merchandise is properly classifiable under TSUS item 657.75 as "Articles of lead, not coated or plated with precious metal: * * * Valued over 13 $\frac{1}{3}$ cents per pound".

THE STATUTES INVOLVEDClassified under:

Articles not specially provided for of a type used for household, table, or kitchen use; * * * all of the foregoing and parts thereof of metal:

*	*	*	*	*	*	*
Articles, wares and parts of base metal, coated or plated with precious metal:						
*	*	*	*	*	*	*
653.80	Coated or plated with silver-----					15% ad val.
	Articles * * * of base metal, not coated or plated with precious metal:					
*	*	*	*	*	*	*
654.20	Other -----					15% ad val. 17% ad val.

Claimed under:

Articles of lead, not coated or plated with precious metal:

*	*	*	*	*	*	*
Valued over 13½ cents per pound-----						
*	*	*	*	*	*	*

The testimony of four witnesses for the plaintiff establishes, to the satisfaction of the court, that the importations in question are souvenirs. As such, they lack any utilitarian nature and are primarily decorative objects. This disposes of one of defendant's subsidiary arguments that the importations may have utilitarian functions such as paperweights. By the nature of physical properties, there will always be objects that are heavier than others. As such, they might be used as paperweights. But an object whose main function is to be a paperweight would be shaped and weighted in a manner more conducive to this task. The size, shape and stability of the articles in question do not support this hypothesis.

The main issue in this case is whether the articles in question are "Articles not specially provided for of a type used for household, table, or kitchen use". Plaintiff argues, based on this language and various passages in the Brussels Nomenclature, that this statutory provision applies only to utilitarian objects. Defendant bases its case on a change in language in the "household" provision between the 1930 Tariff Act and the new law. It claims that the omission of the word "utensils" previously used in paragraph 339 of the Tariff Act of 1930, and the insertion of the word "articles" in the TSUS language, changed the emphasis from the functional nature of the articles to the place in which they are found.

However, if we look closely at the exact phraseology of the new law, i.e., "Articles not specially provided for of a type used for household, table, or kitchen use", the emphasis on utility remains apparent. The new law, although changed in language, uses words in a manner which unavoidably suggests an emphasis on utilitarian function. I give great weight to the repeated presence of forms of the word "use" and the specific mention of areas of the house which are peculiarly associated with utilitarian purposes. The kitchen is a particularly utilitarian room and the table as well, has for the most part, strong utilitarian associations. In short, in my opinion the phrase "household, table, or kitchen use" strongly implies usefulness in those areas and requiring usefulness is a reasonable interpretation of the plain meaning of the phrase.

When the meaning of the law is clear, as I believe this one is, we need not ordinarily go into more indeterminate areas such as legislative history or the use of the Brussels Nomenclature. It must be noted, nevertheless, that there has been a change in the language of the law, from the "household utensils" of the 1930 Act to the present language and, for the sake of completeness, the possibility that the change was intended to have a bearing on the coverage of non-utilitarian articles found in the house should be examined. As is well known, the term "household utensils" under the 1930 Act covered only utilitarian articles. (*L. Tobert Co., Inc., et al. v. United States*, 41 CCPA 161, 163, C.A.D. 554 (1953).) I have been unable to find any support for the view that the new language was intended to work a change in this specific respect. Although a change in language always raises the possibility of a change in meaning this has not been proven to be the case here, particularly in light of the fact that the TSUS represents a complete and comprehensive revision of a prior law. As was stated in *Oklahoma Tax Commission v. Stanolind Pipe Line Co.*, 113 F. 2d 853 (1940), cert. denied, 311 U.S. 693 (1940) :

* * * It is a general rule of construction that by amending a statute the legislature intended to make a substantial change in the preexisting law. But like others, that rule has its exceptions. It is not every change in phraseology that indicates a desired change in substance and effect. It may be made for the purpose of expressing more clearly and accurately the same intent or to improve diction. Or it may be to meet a new and unanticipated condition brought about by judicial interpretation of the preexisting law. And while the presumption to effect a change in substance is fairly strong in the case of an isolated, independent amendment, it has much less persuasive force in a case of this kind where the new enactment is a general, comprehensive tax code. * * * [Emphasis supplied.]

Plaintiff has cited the corresponding passages in the Brussels Nomenclature to support its claim. I feel that the Brussels Nomenclature can be used only when there is ambiguity in the meaning and when the language in the law is almost identical to that in the Brussels Nomenclature, *F. L. Smidt & Company v. United States*, 59 Cust. Ct. 276, C.D. 3141, 273 F. Supp. 384 (1967), *aff'd*, 56 CCPA 77, C.A.D. 958 (1969); *W. R. Filbin & Co., Inc. v. United States*, 63 Cust. Ct. 200, C.D. 3897, 306 F. Supp. 440 (1969). The language of the TSUS, though bearing a slight similarity to that of the Brussels Nomenclature, does not justify use of the Brussels Nomenclature for interpretive purposes. Ambiguity in phraseology can justify the search for legislative history or the use of the Brussels Nomenclature but this language is not ambiguous; its meaning is clear so we need not look any further.

For the reasons set out above together with defendant's admission that the importations are in chief value of lead, valued over 13½ cents per pound, I feel the importations in question should be classified pursuant to TSUS item 657.75.

Judgment will issue accordingly.

(C.D. 4464)

NIKKO BOEKI INT'L., INC. v. UNITED STATES

*Opinion and Order on Defendant's Motion
to Dismiss on Jurisdictional Grounds*

Court No. 72-7-01620

Port of Seattle

[Motion granted.]

(Dated August 7, 1973)

Siegel, Mandell & Davidson for the plaintiff.
Irving Jaffe, Acting Assistant Attorney General (*Velta A. Melnbencis*, trial attorney), for the defendant.

NEWMAN, Judge: Defendant has moved to dismiss this action respecting two of four protests (Nos. 3001-000770 and 30011-000771) covered by the summons upon the ground that the court lacks jurisdiction. No opposition to the motion has been filed by plaintiff. After considering defendant's memorandum and the official papers, I have concluded that the motion to dismiss should be granted.

It appears that protest Nos. 30011-000770 and 30011-000771 were filed (by a customhouse broker) on July 26, 1971 whereas the entries covered by those two protests (entry Nos. 127510 and 127509) were

liquidated on July 30, 1971. Hence, it is apparent that the liquidations and the subsequent notices thereof postdated, by at least several days, the filing of the protests.

28 U.S.C. § 1582(c), as amended by P.L. 91-271, provides that the Customs Court shall not have jurisdiction of an action unless a protest has been filed, as prescribed by section 514 of the Tariff Act of 1930, as amended. Section 514(b) (2), as amended, requires that a protest be filed within ninety days after *but not before notice of liquidation*.

In sum, protest Nos. 30011-000770 and 30011-000771 were filed prematurely, in contravention of the provisions of section 514(b) (2), as amended, and consequently, this court lacks jurisdiction thereof.

Defendant's motion to dismiss is granted as to such protests.

Decisions of the United States Customs Court

(C.R.D. 73-17)

BOISE CASCADE CORP. v. UNITED STATES

*Opinion and Order on Defendant's
Motion to Dismiss Complaint*

Court No. R68/5868

[Motion denied.]

(Dated August 8, 1973)

Glad & Tuttle for the plaintiff.

Irving Jaffe, Acting Assistant Attorney General (*Patrick D. Gill*, trial attorney), for the defendant.

NEWMAN, Judge: Defendant has moved to dismiss the complaint filed in this action and to restore the case to the October 1970 reserve file for disposition as if no complaint had ever been filed.

The complaint is captioned: "YAMAHA INTERNATIONAL CORP., Plaintiff v. THE UNITED STATES, Defendant," and alleges, *inter alia*, that the importation covered by the appeal for reappraisement consists of spare parts or accessories for Yamaha motorcycles. The grounds for defendant's motion are that Boise Cascade Corp. is the plaintiff of record; that Yamaha is an apparent stranger to the action; and that the appeal for reappraisement covers plywood rather than motorcycle parts or accessories. In short, defendant contends that the facts alleged in the complaint have no relationship to the appeal for reappraisement and consequently such complaint is a nullity.

No opposition or other response to the motion has been filed on behalf of either Yamaha or Boise Cascade Corp., the importer of record who filed this appeal for reappraisement.

Pursuant to rules 14.6(a) and 14.9(c), effective October 1, 1970,* this case was among approximately 177,000 actions pending before the Customs Court which were placed in a classification designated as the

*The effective date both of the Customs Courts Act of 1970, Pub. L. 91-271, and the present court rules.

October 1970 reserve file. Under rule 14.6(c) a period of two years, to and including October 31, 1972, was allowed during which time pending suits might be removed from the reserve file, or they would be dismissed automatically by the clerk for failure to prosecute upon expiration of the time provided. Under rule 14.6(b) an action could be removed from the October 1970 reserve file by filing a complaint pursuant to rule 4.4. On October 30, 1972, the instant complaint was filed bearing the court number of this action. If this complaint is dismissed, as requested by defendant, then no complaint exists to preclude dismissal of the action for failure to prosecute.

I am satisfied from an examination of the official papers that Boise Cascade Corp. is the proper plaintiff in this action and that the complaint has no relationship to the appeal for reappraisement. Apparently the complaint was addressed to another appeal for reappraisement covering an entry involving motorcycle parts and accessories, and inadvertently the complaint was given the court number of the instant case. However, the defective complaint may be corrected by filing an amended pleading pursuant to rule 4.8, if permitted by the court. *International Mercantile Corp. v. United States*, 71 Cust. Ct. —, C.R.D. 73-16 (1973); *Bendix Mouldings, Inc., et al. v. United States*, 70 Cust. Ct. —, C.R.D. 73-6 (1973).

Under all the circumstances, I see no serious prejudice to defendant if its motion to dismiss the complaint is denied and plaintiff is afforded an opportunity to file an amended complaint. Accordingly, it is hereby ORDERED:

1. Defendant's motion to dismiss is denied.
2. Boise Cascade Corp., plaintiff in this action, shall have a period of twenty days from and after the date of service of this order within which to file an amended complaint.
3. If upon the expiration of said twenty-day period, no amended complaint shall have been filed by plaintiff Boise Cascade Corp., this action shall be deemed dismissed for failure to prosecute, without any further proceeding; and in such event, the clerk is directed to enter an order of dismissal without further order.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *August 13, 1973.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

CUSTOMS COURT

VERNON D. ACREE,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
P73/785	Rao, J. August 9, 1973	C. J. Tower & Sons of Niagara, Inc., et al.	69/33204, etc.	Par. 1530(b) 17% and 2½ per lb.	Par. 230(d) 2½%	James Loudon & Co., Inc., et al. v. U.S. (C.D. 4230)	Buffalo-Niagara Falls Glass fiber mats
P73/786	Ford, J. August 9, 1973	Kryos, Inc.	70/23573, etc.	Item 691.70 10% or 8.5%	Item 661.35 8% or 7%	Kryos, Inc. v. U.S. (C.D. 4280)	Los Angeles Liquid nitrogen spray freezing equipment
P73/787	Richardson, J. August 9, 1973	Feldro, Inc.	67/36704, etc.	Item 685.90 17.5% and 15.5%	Item 685.70 8.5% and 7.5%	Feldro, Inc. v. U.S. (C.A.D. 1028)	New York 4-way flusher switches

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
F73/788	Watson, J. August 9, 1973	Cellulose Sales Co.	71-6-00894	Item 493.18 11¢ per lb.	Item 494.60 3%	Agreed statement of facts	New York A substance used solely for the purpose of adhering wallpaper or wall coverings to walls
F73/789	Watson, J. August 9, 1973	Delaware Mercantile Co., Inc.	67/58027, etc.	Item 732.36 38% or 27%	Item 662.30 19% or 17%	Agreed statement of facts	New York Caliper brake cables
F73/790	Malez, J. August 9, 1973	Ehrenreich Photo Optical Industries, Inc.	68/86170, etc.	Item 657.20 18% Item 722.80 19%	Item 722.94 10%	Agreed statement of facts	New York Equipment specially designed for photofinishing (still picture) older than contact printers, developing tanks or enlarging easels
F73/791	Newman, J. August 9, 1973	Lipman's Imports, Inc.	71-6-00309, etc.	Item 657.35 0.8¢ per lb. and 10.2% (items marked "A")	Item 654.00 7% (items marked "A") Item 651.20 11.6% (items marked "C") Item 657.30 18% (items marked "C")	The Westbrass Company v. U.S. (C.D. 4283) (items marked "A" and "C") Shower heads (items marked "C")	New York Shower heads and strainers (items marked "A") Shower heads (items marked "C")

CUSTOMS COURT

35

P73/792	Re. J. August 9, 1973	Ray Control, Inc.	60/83784	Item 72.06 18½% plus 18.9¢ per lb.	Item 72.15 18½%	Davar Products, Inc. v. U.S. (C.D. 3880)	New York Articles chiefly used for preparing, serving or storing food or beverages, or food or beverage ingredients, in c.v. of plastics
P73/793	Ford, J. August 10, 1973	Nomura (America) Corp., et al.	66/1224, etc.	Par. 1531 or 183/1550(8) 20%	Par. 353 12½%	Judgment on the pleadings Lafayette Radio Electronics Corporation v. U.S. (C.A.D. 977)	New York Radio cases imported with radios (entirely with the radios)
P73/794	Ford, J. August 10, 1973	Rye Sound Corp.	61/1460, etc.	Par. 353 18½%	Par. 353 18½% or 12½%	Agreed statement of facts	New York Earphones, jack plugs, plugs, sockets, etc., wholly or in c.v. of metal, which have as an essential feature an electrical element or device, or parts thereof, wholly or in c.v. of metal
P73/795	Richardson, J. August 10, 1973	Fedtro, Inc.	69/15581, etc.	Item 65.30 17.5% or 15.5%	Item 65.70 8.85% and 7.5%	Fedtro, Inc. v. (C.A.D. 1028)	New York 4-way flasher switches
P73/796	Landis, J. August 10, 1973	United China & Glass Co.	68/10489	Par. 212 60% or 45% and 10¢ per doz. pls.	Par. 212 45%	Baltimore & Ohio R.R. Co. v. United China & Glass Company (C.A.D. 719) W. Kay Company, Inc. v. U.S. (C.D. 284)	Baltimore Decorated porcelain cups and saucers
							New York Merchandise Co., Inc. v. U.S. (C.D. 3463)

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
							Par. or Item No. and Rate
F73/797	Maletz, J. August 10, 1973	Gambles Import Corp.	60/66013, etc.	Asentireties	Protests prema- ture; apprais- ement and liqui- dation not in accordance with law; protests dismissed; dis- trict director to take appropri- ate action	U.S. v. New York Merchandise Co., Inc. (C.A.D. 10/94) United Merchandise Corp. et al. v. U.S. (C.D. 2/13) Torch Mfg. Co., Inc. v. U.S. (C.D. 2/93)	San Diego Stuffed animal radios im- ported with batteries
F73/798	Newman, J. August 10, 1973	Burroughs Corporation	60/51912	Item 678.23 12.6% 10.6%	Judgment on the pleadings	New York Calculating machine's Style "J700"	

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

CUSTOMS COURT

37

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R73/232	Re, J. August 7, 1973	Balfour, Guthrie & Co., Ltd., et al.	R61/1742, etc.	Export value: Net appraised value less 7½%, net packed	Not stated	U.S.v. Geitz Bros. & Co. et al. (C.A.D. 927)	Tacoma (Seattle) Japanese plywood
R73/233	Re, J. August 7, 1973	Export Pacific et al.	29/281-A, etc.	Export value: Net appraised value less 7½%, not packed	Not stated	U.S. v. Geitz Bros. & Co. et al. (C.A.D. 927)	Tacoma (Seattle) Japanese plywood
R73/234	Ford, J. August 8, 1973	Mitsui & Co., Ltd., et al.	R67/8682, etc.	Constructed value	Radio: f.o.b. invoice unit values less U.S. \$0.18, each, packed Earphones: U.S. \$0.08, each, net packed Batteries: U.S. \$0.10, each, net packed	Agreed statement of facts	New York Radios imported with earphones and batteries.

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R73/285	Ford, J. August 8, 1973	Railway Express Agency, Inc., et al.	R89/617, etc.	Constructed value	Radios: f.o.b. invoice unit value less (U.S. §) 0.14, 0.20, 0.16, 0.18, each, packed; or f.o.b. Earphones: (U.S. §) 0.06, 0.14, 0.08, each, net, packed Batteries: (U.S. §) 0.08, 0.06, 0.10, each net packed (Such values are indicated in decision and judgment for entries enumerated on schedules A through E)	Agreed statement of facts	San Francisco Radios, imported alone, or radios imported together with earphones and batteries
R73/286	Ford, J. August 8, 1973	Westinghouse Electric Corp.	R88/18713, etc.	Constructed value	Radios: f.o.b. invoice unit value less (U.S. §) 0.14, 0.22, 0.06, 0.10, 0.08, 0.18, 0.26, 0.11, each, packed Radio chassis: f.o.b. invoice unit value, each, net packed Earphones (U.S. §): 0.06, 0.12, 0.08, each, net packed Batteries (U.S. §): 0.08, 0.10, 0.12, 0.06, 0.04, 0.16, each, net packed (Such values are indicated in decision and judgment for entries enumerated on schedules A through L)	Agreed statement of facts	New York Radio chassis, radios imported alone, radios imported together with earphones, radios imported together with batteries, and radios imported together with earphones and batteries

CUSTOMS COURT

39

R73/237	Re. J. August 8, 1973	Plywood & Door Midwest Corpora- tion	R62/135388, etc.	Export value: Values Indicated on entry papers in red ink, packed, less the in- voiced ocean freight and insurance, pro- rated, and (when deducted in apprais- ement) less the in- voiced seaway toll, prorated	Not stated		Muskegon (Detroit) Birch plywood
R73/238	Ford, J. August 9, 1973	Oriental Exporters, Inc.	R68/13836	Constructed value	Radios: f.o.b. invoice unit value less U.S. \$0.11, each, packed Earphones: U.S. \$0.04, each, net packed Batteries: U.S. \$0.17, each, net packed	Agreed statement of facts	New York Radios imported with earphones and batteries
R73/239	Ford, J. August 9, 1973	Ross Electronics Corp.	R71/54, etc.	Constructed value	\$2.66 net packed (Model No. RZ-460); \$7.13 net packed (No. DR- 338)	Agreed statements of facts	Chicago Radios assembled in and exported from Taiwan
R73/240	Re. J. August 9, 1973	Plywood & Door Southern Corpora- tion	R63/2433, etc.	Export value: Unit val- ues indicated on entry papers in red ink, packed, less the in- voiced ocean freight and insurance, pro- rated	Not stated		Houston Birch plywood
R73/241	Newman, J. August 10, 1973	Katone Corp.	R60/3994	Constructed value	\$5.10 for each radio, net packed \$0.05 for each earphone, net packed \$0.10 for each battery, net packed	Judgment on the plead- ings	New York Radios imported with earphones and batteries

CUSTOMS COURT

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	UNIT OF VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R73/242	Newman, J. August 10, 1973	Mar-Lin Radio Corp.	R70/1948	Constructed value*	\$0.51 for each radio, net packed \$0.15 for each earphone, net packed \$0.03 for each battery, not packed	Judgment on the pleadings	New York Radios imported with earphones and batteries
R73/243	Newman, J. August 10, 1973	Mar-Lin Radio Corp.	R70/2073	Constructed value*	\$0.99 for each radio, net packed \$0.15 for each earphone, net packed \$0.06 for each battery, not packed	Judgment on the pleadings	New York Radios imported with earphones and batteries
R73/244	Newman, J. August 10, 1973	Yamaha Internation- al Corp. H. H. Elder & Co.	R70/2803	Cost of production: In- voice unit values	Not stated	Judgment on the pleadings	Philadelphia Spare parts and ac- cessories for Yamaha motorcycles

Index

U.S. Customs Service

	T.D. No.
Copper; temporary suspension of duties on certain forms of copper pursuant to Public Law 93-77-----	73-220
Cotton, wool and manmade fiber textiles from the Republic of Korea; visa requirements modified as of August 1, 1973, effective as soon as possible -----	73-331
Drawback decisions :	
Aluminum and aluminum alloy forgings and other semi-fabricated products -----	73-236-A
Caprolactam monomer, in solution, contaminated; and molten caprolactam monomer-----	73-236-B
Cranes, shovels, draglines, transporters, hoists, and winches-----	73-236-C
Debarkers; parts and components of cranes, shovels, draglines, transporters, hoists and winches-----	73-236-D
Drums, steel-----	73-236-E
Fry pan blanks, stainless steel clad-----	73-236-F
Hosiery, nylon; and nylon panty hose :	
Independence Industries, Inc-----	73-236-G
Lamar Knitting Mills, Inc-----	73-236-I
Phoenix Manufacturing Co., Inc-----	73-236-H
Lemon oil and orange oil, bulked, filtered and blended; concentrated lemon oil and orange oil-----	73-236-J
Methyl 4-Chlorophenyl-(3-Trifluoromethyl Phenoxy) Acetate (Halofenate intermediate)-----	73-236-K
Molding components, nylon-----	73-236-L
Oil, raw linseed; and linseed meal-----	73-236-M
Orange juice, frozen concentrated-----	73-236-N
Parts, automotive-----	73-236-O
Polypropylene-homopolymer and polypropylene-copolymers-----	73-236-P
QA 171F and 170E P-nitrobenzyl cephem nucleus HCl and QA 166G and 170D cephalixin disolvate-----	73-236-Q
Santicizer 148 (isodecyl diphenyl phosphate)-----	73-236-R
Sodium Carboxymethylcellulose (CMC)-----	73-236-S
Syrup, Pepsi-Cola bottling, diet-----	73-236-T
Tank cars, tank heads, and other tank car parts-----	73-236-U
Windshield and vent front door, rear quarter, and rear windows for automobiles-----	73-236-V
Wire, brite drawn steel reinforcement; and wall ties :	
Dur-O-Wal of Illinois-----	73-236-W
Dur-O-Wal Wire, Inc-----	73-236-X
Genimar, Inc-----	73-236-Y
Wool top, dyed-----	73-236-Z

Foreign currencies :

Daily rates:	T.D. No.
Hong Kong dollar, for the period July 23 through 27, 1973-----	73-235
Iran rial, for the period August 6 through 10, 1973-----	73-235
Philippine peso, for the period August 6 through 10, 1973-----	73-235
Singapore dollar, for the period August 6 through 10, 1973-----	73-235
Thailand baht (baht), for the period August 6 through 10, 1973 -----	73-235
Rates which varied by 5 per centum or more from the quarterly rate published in T.D. 73-190 for the Malaysian dollar for the period August 6 and 9, 1973-----	73-230
Instruments of international traffic; steel rack skids, wooden shells, and steel bars, designated-----	73-234
Omaha, Nebraska, port of entry in Chicago, Illinois, Customs district (Reg. IX), limits extended; sec. 122(c), C.R. amended-----	73-228
Personal declarations and exemptions; free entry privileges for foreign military personnel; secs. 11.3, 145.39, 148.81, amended; sec. 10.30c and appended fnmts. e and f, deleted; sec. 148.90 added, C.R. amended-----	73-227
Printed vinyl film, findings of dumping; sec. 153.43, C.R. amended: Argentina -----	73-233
Brazil -----	73-232

Customs Court

Complaint:

Improper plaintiff on, C.R.D. 73-17

Motion to dismiss, C.R.D. 73-17

Construction:

Rules of U.S. Customs Court:

Rule 4.4, C.R.D. 73-17

Rule 4.8, C.R.D. 73-17

Rule 14.6(a), C.R.D. 73-17

Rule 14.6(b), C.R.D. 73-17

Rule 14.6(c), C.R.D. 73-17

Rule 14.9(e), C.R.D. 73-17

Tariff Act of 1930, sec. 514, C.D. 4464

Tariff Schedules of the United States:

Item 653.80, C.D. 4463

Item 654.20, C.D. 4463

Item 657.75, C.D. 4463

U.S. Code, title 28, sec. 1582(c), C.D. 4464

Decorative objects; utilitarian nature of articles, C.D. 4463

Failure to prosecute, motion to dismiss for, C.R.D. 73-17

Household, table, or kitchen use, articles for; replicas, souvenir, C.D. 4463

Improper plaintiff on complaint, C.R.D. 73-17

Lack of jurisdiction, motion to dismiss for, C.D. 4464

Lead articles, not coated or plated with precious metal; souvenirs, C.D. 4463

Legislative history; Brussels Nomenclature, C.D. 4463

Metal articles, coated or plated with silver; replicas, souvenir, C.D. 4463

Motion to dismiss:

Complaint, C.R.D. 73-17

For lack of jurisdiction, C.D. 4464

Replicas, souvenir:

Household, table, or kitchen use, articles for, C.D. 4463

Metal articles, coated or plated with silver, C.D. 4463

Souvenirs; lead articles, not coated or plated with precious metal, C.D. 4463

Utilitarian nature of articles; decorative objects, C.D. 4463





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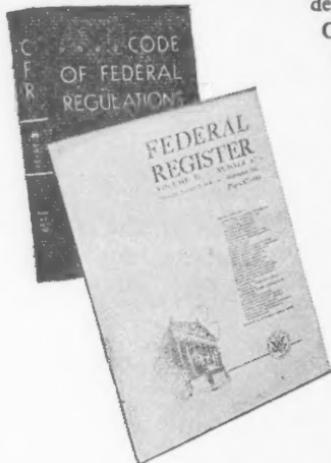
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